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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,932	01/25/2008	Hartmut S. Engel	MFA-25802/04	1120
25006	7590	11/19/2009		
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C			EXAMINER	
PO BOX 7021			TSIDULKO, MARK	
TROY, MI 48007-7021				
			ART UNIT	PAPER NUMBER
			2885	
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			11/19/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/539,932	ENGEL, HARTMUT S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MARK TSIDULKO	2885	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The submission of amendment filed on 9/17/2009 is acknowledged. At this point claims 1-16 have been amended, and are pending in the instant application.

Drawing and specification objections provided in the previous office action are withdrawn, since typographical error in page 13 of specification, indicating additional reflector with reference character 7", which was not found in the drawings, is corrected. Drawings now do not include indefinite reference characters.

Upon further consideration, the allowable subject matter of claims 8 and 9 are withdrawn, new office action hereby follows.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (US 7,014,341) in view of Stewart (US 2,244,737).

Referring to Claims 1, 2, 5, 7, 11 and 12 King et al. disclose (Fig.19) a built-in lighting device for securing in a room ceiling, including a bulb, a first reflection region (outer reflector) [188] and a second reflection region (inner reflector) [182], which can be released from the first reflection region [188]. King et al. also teaches the use of cover plate released together with the inner reflector [182] (col.8, lines 66, 67), but do not disclose a structure of the plate.

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Stewart discloses (Figs.11, 12, 13) a lighting fixture including a cover [60] which is obviously translucent or transparent in order to transmit the light, the cover is secured to the frame through the retaining ring [76] (see Fig.13), and having a direct light region located at its center and surrounded by a diffuse (scattering) light region [61]. As shown in Fig.12, the cover [60] can be completely released from the reflector region. In addition, regarding claim 11, as shown in Fig.12, the direct light region [60] and diffuse light region [61] are acted on by a common bulb [67]. Regarding claim 12, providing the cover of Stewart for the lamp of King et al., will allow to obtain the structure, wherein diffuse light region [61] of the cover will be located between the second reflector region [182] and additional reflector [186], therefore acted indirectly via additional reflector by a bulb disposed above the reflector.

Using the cover of this structure allows obtaining illumination with different light distribution patterns and closing the opening in the lamp in dust-proof manner, as required by claims 7 and 8.

Referring to Claim 3 one having ordinary skill in the art would have recognized to provide the lens of Stewart covering whole opening of the lighting device of King et al. to transmit the light reflected from both, inner and outer reflectors.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the cover plate of the device of King et al., with diffusion region, as taught by Stewart, in order to obtain different light distribution pattern, for the purpose of decorative appearance. Further, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lens of Stewart covering whole opening of

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the lamp of King et al., in order to transmit the light reflected from both, inner and outer reflectors.

Referring to Claim 4, while Stewart does not disclose a cover having opening, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lamp of King et al. with the cover of the device of Stewart, having an opening in the central portion, as an alternative structure, as necessitated by the specific requirements of a given application, because the opening does not change the functionality of the lamp.

Referring to Claim 6 King et al. disclose (Fig.6) a housing [24], which is light-proof, because inner surface of the housing is coated with reflective paint, so that the light is more efficiently reflected through the inner and outer reflectors (col.9, lines 48-52).

King et al. disclose the instant claimed invention except for releasable screws for cover plate.

Stewart discloses (Fig.12) a cover plate being attached to the frame by screws (not indicated by reference character, see near edge of cover [72]).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the cover plate being attached to the lamp of King et al. by screws, as taught by Stewart, in order to obtain stable position of the cover plate.

Referring to Claim 9 King et al. disclose (Fig.19) that region of the first reflector [188] and region of the second reflector [182] adjoin one another.

Referring to Claim 10 King et al. disclose (Fig.16) a light passage region [112] formed between two reflectors [106] and [114].

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Referring to Claim 13 King et al. disclose (Fig. 19) an additional reflector [188] formed by a curved surface.

Referring to Claim 14 King et al. disclose that the housing can function as an additional reflector, having a highly specular reflector in its upper portion (col. 8, lines 58-61).

Referring to Claim 15 King et al. disclose (Fig. 19) an upper portion of the second reflector [182] having a cut-out.

Referring to Claim 16 King et al. disclose (Fig. 16) a bulb [108] having elongated shape.

I would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the housing of the lamp of King et al. having a parallelepiped shape, as necessitated by the specific requirements of a given application, since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well with the housing being parallelepiped shaped.

### ***Response to Arguments***

Applicant's arguments filed 9/17/2009 have been fully considered but they are not persuasive.

Applicant argues (page 9) that King fails to disclose a plate which covers the bottom of the lamp at all.

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In response, the Examiner agree that King does not disclose a plate which covers the bottom of the lamp at all, therefore the primary reference of King has been meant to be viewed in combination with the secondary reference of Stewart such that Stewart teach the cover lens [60] covering the bottom of the device at all.

Applicant argues that Stewart does not disclose a lower plate attached to the reflector.

In response, as shown in Figs.12 and 13 the cover lens [60] is attached to the reflector [64] through the retaining ring not indicated with reference character in Fig.12, but indicated as [76] in Fig.13.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571) 272-2384. The examiner can normally be reached on 9:30 – 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James ) Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M.T./

October 22, 2009

/Jong-Suk (James) Lee/

Supervisory Patent Examiner, Art Unit 2885